

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

CHAD M. MCEVER,
SCOTT OPPENHEIMER, and
PEGGY O OPPENHEIMER LIVING TRUST

Case 25-cv-508

Plaintiffs,

v.

TOWN OF SCOTT,

Defendant

**DECLARATION OF ATTORNEY MICHAEL J. ROMAN
IN SUPPORT OF DEFENDANT'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1746, I hereby declare the following to be true under penalty of perjury.

1. I am one of the attorneys representing the defendant, Town of Scott, in the above matter. I am duly licensed and authorized to practice law in the State of Wisconsin and am admitted to practice before the United States District Court for the Western District of Wisconsin. I make this affidavit based on my personal knowledge and as an authorized representative for the above defendant as their counsel of record.

2. The original Summons and Complaint in the above action was filed by the plaintiffs, Chad M. McEver, Scott Oppenheimer, and Peggy O Oppenheimer Living Trust, in the Circuit Court for Burnett County, Wisconsin (Burnett County Circuit Court Case No. 2025CV48) on May 16, 2025, and the action is now pending in state court.

3. The Town of Scott was served with a copy of the summons and complaint on May 28, 2025; a process server left a copy of the summons and complaint with the Town Clerk Kenneth Busby.

4. The Complaint alleges the plaintiff Chad M. McEver as an adult resident of the State of Texas, the plaintiff Scott Oppenheimer as an adult resident of the State of Florida, and the plaintiff Peggy O Oppenheimer Living Trust, incorporated in the State of Florida—all owing real property in the Town of Scott, Burnett County, Wisconsin.

5. The defendant, Town of Scott, is a municipal town body under Wis. Stat. § 60.01, located in Burnett County, Wisconsin, 28390 County Rd H, Spooner, WI 54801.

6. The plaintiffs' state court Complaint alleges original federal question causes of action under 28 U.S.C. § 1331, by challenging the constitutionality of the Town of Scott's Ordinance No-2024-01 an ordinance relating to regulating certain Artificial Wake Enhancement on lakes within the Town of Scott. The plaintiffs claim the ordinance violates their constitutional rights to procedural and substantive due process under the United States Constitution and the Fourteenth Amendment. They allege causes of action under 42 U.S.C. § 1983 and 42 U.S.C. § 1988, and relief under 28 U.S.C. §§ 2201-2202.

7. The plaintiffs' complaint also alleges state law claims challenging the enforceability and legality of Town of Scott's Ordinance No-202401 under the Wisconsin Constitution and Wis. Stat. § 806.04. These claims give rise to supplemental jurisdiction to the district court under 28 U.S.C. § 1367(a) because

they arise out of and are so related to the same case or controversy over the Town's Artificial Wake Enhancement ordinance that gives rise to the district court's original federal question jurisdiction.

8. The Summons and Complaint names the Town of Scott as the only defendant, and thus all defendants have consented to the removal of the action to the district court.

9. The summons and complaint were served on the Town of Scott on May 28, 2025; therefore, this Notice of Removal is timely filed because it was filed within the 30 days of the triggering deadline for removal under § 1446(b).

10. True and accurate copies of the pleadings and submissions referenced in this affidavit and the Notice of Removal that were served on the defendant in Burnett County Circuit Court No. 2025CV48 accompany the Notice of Removal.

11. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection.

Dated at Wausau, Wisconsin this 16th day of June, 2025.

s/ Michael J. Roman

Michael J. Roman

State Bar No.: 1020648

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